

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 514

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding the judicial system, so as to provide for provisions regarding the assignment of senior judges; to provide for certain provisions regarding a senior judge's status; to change certain provisions relating to certain courts requesting assistance of a senior judge; to provide for conditions for such assistance; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding the judicial system, is amended by revising subsection (n) of Code Section 15-1-9.1, relating to requesting judicial assistance from other courts, as follows:

"(n) Notwithstanding the provisions of this Code section, a senior judge shall not be assigned, designated, or preside in any:

(1) ~~criminal~~ Criminal case involving a capital offense for which the death penalty may be imposed once the state has filed a notice of its intention to seek the death penalty; provided, however, that a senior judge may be assigned, designated, or preside in such a case if the judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status; or

(2) Civil case involving a challenge to the constitutionality of any state statute or state action, with the exception of habeas corpus actions; provided, however, that:

(A) A senior judge may be assigned, designated, or preside in such a case if such judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status; and

(B) If a challenge subject to this paragraph is raised by pleading later than 60 days after the filing of the complaint or within 45 days of the timely filing of the answer, an

elected superior court judge of the circuit in which the case is pending shall determine whether, on the face of the challenge as raised and taking the facts as stated by the party asserting the challenge as true, the constitutional challenge is without merit. If when making a determination pursuant to this paragraph the elected superior court judge determines that the challenge has merit, the case shall be reassigned to an elected superior court judge; provided, however, that if when making such determination the elected superior court judge determines that the challenge is without merit, the case shall remain with the senior judge.

This paragraph shall not apply to any constitutional challenge raised after the entry of the pretrial order entered immediately prior to trial."

SECTION 2.

Said chapter is further amended by revising subsection (e) of Code Section 15-1-9.2, relating to senior judge status and requesting assistance from senior judges, as follows:

"(e) Notwithstanding the provisions of this Code section, a senior judge shall not be assigned, designated, or preside in any:

(1) Criminal ~~criminal~~ case involving a capital offense for which the death penalty may be imposed once the state has filed a notice of its intention to seek the death penalty; provided, however, that a senior judge may be assigned, designated, or preside in such a case if the judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status;
or

(2) Civil case involving a challenge to the constitutionality of any state statute or state action, with the exception of habeas corpus actions; provided, however, that:

(A) A senior judge may be assigned, designated, or preside in such a case if such judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status; and

(B) If a challenge subject to this paragraph is raised by pleading later than 60 days after the filing of the complaint or within 45 days of the timely filing of the answer, an elected superior court judge of the circuit in which the case is pending shall determine whether, on the face of the challenge as raised and taking the facts as stated by the party asserting the challenge as true, the constitutional challenge is without merit. If when making a determination pursuant to this paragraph the elected superior court judge determines that the challenge has merit, the case shall be reassigned to an elected superior court judge; provided, however, that if when making such determination the elected superior court judge determines that the challenge is without merit, the case shall remain with the senior judge.

This paragraph shall not apply to any constitutional challenge raised after the entry of the pretrial order entered immediately prior to trial."

SECTION 3.

Said chapter is further amended by revising subsection (g) of Code Section 15-1-9.3, relating to senior judges of the state court, probate court, or juvenile court and requesting assistance of a senior judge, as follows:

"(g) Notwithstanding the provisions of this Code section, a senior judge shall not be assigned, designated, or preside in any:

(1) Criminal ~~criminal~~ case involving a capital offense for which the death penalty may be imposed once the state has filed a notice of its intention to seek the death penalty; provided, however, that a senior judge may be assigned, designated, or preside in such a case if the judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status;
or

(2) Civil case involving a challenge to the constitutionality of any state statute or state action, with the exception of habeas corpus actions; provided, however, that:

(A) A senior judge may be assigned, designated, or preside in such a case if such judge had previously been assigned or designated and presided over such case while serving as an elected superior court judge prior to attaining senior judge status; and

(B) If a challenge subject to this paragraph is raised by pleading later than 60 days after the filing of the complaint or within 45 days of the timely filing of the answer, an elected superior court judge of the circuit in which the case is pending shall determine whether, on the face of the challenge as raised and taking the facts as stated by the party asserting the challenge as true, the constitutional challenge is without merit. If when making a determination pursuant to this paragraph the elected superior court judge determines that the challenge has merit, the case shall be reassigned to an elected superior court judge; provided, however, that if when making such determination the elected superior court judge determines that the challenge is without merit, the case shall remain with the senior judge.

This paragraph shall not apply to any constitutional challenge raised after the entry of the pretrial order entered immediately prior to trial."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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SECTION 5.

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All laws and parts of laws in conflict with this Act are repealed.